REGULATION (EEC) No 233/74 OF THE COMMISSION

of 25 January 1974

on the issue of an invitation to tender for the supply as food aid of skimmed-milk powder to be purchased on the Community market

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 804/68 (1) of 27 June 1968 on the common organization of the market in milk and milk products, as last amended by the Act (2) on the Conditions of Accession and the Adjustments to the Treaties, and in particular Article 7 (5) thereof;

Having regard to Council Regulation (EEC) No 2721/72 (3) of 19 December 1972 on the supply of skimmed-milk powder as food aid, as amended by Regulation (EEC) No 2700/73 (4), and in particular Article 4 thereof;

Whereas Regulation (EEC) No 2721/72 provides, *inter alia,* for the supply of 29 450 metric tons of skimmed-milk powder to the World Food Programme; whereas that Regulation also provides that, if the skimmed-milk powder in public stocks does not have the characteristics necessary for a specific destination, supplies may be ensured by the purchase of skimmed-milk powder on the Community market;

Whereas the WFP has made a request for 4 852·7 metric tons of skimmed-milk powder for shipment to India; whereas since the recipient country concerned is a long way from the Community, a stronger packing is required than that prescribed in the case of skimmed-milk powder bought in under intervention arrangement; whereas the skimmed-milk powder must therefore be purchased on the Community market;

Whereas, given the present situation on the market in skimmed-milk powder which is characterized by relatively high prices, the successful tenderer should be allowed to purchase an equal quantity of skimmed-milk powder from public stocks at a price fixed in accordance with Article 5 (2) of Council Regulation (EEC) No 1014/68 (5) of 20 July 1968 laying down general rules for the public storage of skimmed-milk powder, as last amended by Regulation (EEC) No 1211/69 (6); whereas this would ensure, as required by Article 2 (2) of Regulation (EEC) No 2721/72, that the normal development of prices on the market is not disturbed, while avoiding a higher financial burden for the Community;

Whereas the supply, for delivery fob, must be put out to tender, the tendering procedure being set out in Commission Regulation (EEC) No 1911/73 (7) of 13 July 1973 concerning invitations to tender for the supply as food aid of skimmed-milk powder bought on the Community market; whereas, however, application of that Regulation requires that points, notable the destination of the skimmed-milk powder, the time limit for the submission of tenders and the terms of delivery, be further specified;

Whereas account should also be taken of the fact that as a result of the reduction of the intervention price in certain Member States pursuant to Article 2 (2) of Council Regulation (EEC) No 1188/73 (8) of 8 May 1973 fixing the target price for milk and the intervention prices for butter, skimmed-milk powder and Grana Padano and Parmigiano Reggiano cheeses for the 1973/74 milk year, prices of skimmed-milk powder vary within the Community;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

1. Pursuant to Regulation (EEC) No 1911/73, the Belgian, German, French, Dutch and British intervention agencies shall issue an invitation to tender for the supply to the World Food Programme for shipment to India of 4 852·7 metric tons of skimmed-milk powder from the Community market.

2. The skimmed-milk powder shall be delivered fob, in the following lots:

— lot A: 700 metric tons,
— lot B: 700 metric tons,
— lot C: 700 metric tons,
— lot D: 700 metric tons,
— lot E: 752·7 metric tons,

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 73, 27. 3. 1972, p. 14.
(3) OJ No L 291, 28. 12. 1972, p. 28.
(4) OJ No L 279, 5. 10. 1973, p. 1.
(5) OJ No L 173, 22. 7. 1968, p. 4.
(6) OJ No L 155, 28. 6. 1969, p. 13.
(7) OJ No L 196, 17. 7. 1973, p. 12.
(8) OJ No L 122, 9. 5. 1973, p. 1.

— lot F : 900 metric tons,
— lot G : 400 metric tons.

3. Delivery of the lots referred to in paragraph 2 shall take place on a date to be set by the intervention agency concerned, such date to be after 14 and before 31 March 1974.

Article 2

The skimmed-milk powder concerned shall be packed in 25 kg bags meeting the specifications set out in the Annex.

Article 3

The Community port indicated in the tender must be accessible to seagoing vessels.

Article 4

The time limit for the submission of tenders shall expire at 12 noon on 12 February 1974.

Article 5

The corrective referred to in Article 2 (2) of Regulation (EEC) No 1188/73 shall not be applied to skimmed-milk powder supplied by the tenderer under this Regulation.

However, when the maximum amount referred to in Article 6 of Regulation (EEC) No 1911/73 is being fixed, account shall be taken of the reduction pursuant to Article 2 (1) of Regulation (EEC) No 1188/73 in the intervention price applicable in Germany and in the Benelux States.

Article 6

1. The relevant intervention agency shall, at his request, sell to the successful tenderer a quantity of skimmed-milk powder bought in under Article 7 of Regulation (EEC) No 804/68 equal to the quantity to be supplied by him. The contract of sale shall be concluded within 15 days from the day of receipt of the information of allocation of the tender.

2. The skimmed-milk powder shall be sold ex warehouse at a price equal to the buying-in price applied by the relevant intervention agency to the date referred to in Article 4 of the expiry date of the tender plus 2 units of account per 100 kg.

3. The buyer shall pay the intervention agency for the skimmed-milk powder prior to taking it over pursuant to paragraph 4.

4. The buyer shall take over the skimmed-milk powder within 15 days of the day on which the contract of sale is concluded. This operation may be effected in stages.

Except in cases of *force majeure,* if the buyer fails to take over the skimmed-milk powder within the period specified the sale shall be cancelled in respect of the quantities remaining and the successful tenderer shall not be allowed to conclude a fresh contract at a later date.

5. The right conferred on the successful tenderer by this Article shall not be transferable.

Article 7

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 25 January 1974.

For the Commission

The President

François-Xavier ORTOLI

ANNEX

I. **Packing :**

(a) net weight of contents 25 kg,

(b) composition of packing :

1 Kraft paper bag of a strength of at least 80 g/m^2,
3 Kraft paper bags of a strength of at least 70 g/m^2,
1 interposed tar-lined paper bag of a strength of at least 140 g/m^2 (1),
1 separate inner bag of polyethylene of at least 0·08 mm thickness, closed by double binding.

II. **Marking of packing :**

The bag must bear, in the language specified by the relevant agency, the following particulars :

(a) port of destination,
(b) description 'Skimmed-milk powder',
(c) the words : 'Gift of the European Communities — World Food Programme Action',
(d) net weight : '25 kg',
(e) name and address of the successful tenderer,
(f) lot number and number of bags comprising the lot.

(1) This bag may be replaced by a Kraft bag lined with polyethylene of total combined strength of at least 80 g + 15 g per m^2.